
United States
Circuit Court of Appeals
For the Ninth Circuit.

R. WOODLAND GATES,

Appellant,

vs.

COLUMBIA-KNICKERBOCKER TRUST COM-
PANY, a Corporation, Trustee,

Appellee.

Transcript of Record.

Upon Appeal from the United States District Court for the
District of Nevada.

Filed

JAN 26 1916

F. D. Monckton,
Clerk.

No. 2690

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur. Title heads inserted by the Clerk are enclosed within brackets.]

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*In the District Court of the United States for the
District of Nevada.*

JOSEPH GUTMAN et al.,

Complainants.

vs.

PACIFIC RECLAMATION COMPANY, a Corpor-
ation,

Defendant.

R. WOODLAND GATES,

Intervenor.

vs.

PACIFIC RECLAMATION COMPANY, a Cor-
poration, and GEORGE M. BACON, Receiver
Thereof,

Defendants.

Bill in Intervention [Filed July 7, 1914].

Comes now, R. Woodland Gates by his solicitors Sweeney, Morehouse & Griffin, and by leave of Court first obtained, presents this, his Bill in Intervention, and respectfully shows the Court:

I. That intervenor is a *bona fide* resident and citizen of the city of Washington in the District of Columbia.

II. That the defendant, Pacific Reclamation Company, is a corporation organized and existing under and by virtue of the laws of the State of Nevada and doing business and owning real and personal property in said State and having its principal place of business in the town of Metropolis, in the county of Elko, State of Nevada.

III. That on about the twenty-first day of March, 1913, Joseph Gutman, a judgment creditor of said corporation, Pacific Reclamation Company, together with twenty-eight (28) other creditors, or about that number, filed a bill of complaint in this court alleging that the said Pacific Reclamation Company was unable to meet its obligation as they matured; that there was grave danger of a waste of its assets and that it was threatened with numerous actions at law; that it was wholly insolvent and that the business interests of the said corporation, Pacific Reclamation Company, required the appointment of a receiver of said corporation in order to protect and conserve its property and assets—and praying that a receiver be appointed by this court for the purposes above mentioned, as well as to take possession of all of the property [1*] of said corporation and to manage, operate and control the same.

IV. That on the twenty-first day of March, 1913, the Pacific Reclamation Company, through its attorneys, filed its answer in said cause, admitting the facts set forth in the bill of complaint and joining with Joseph Gutman and others, as complainants, in their request for the appointment of such receiver.

V. That on the said twenty-first day of March, 1913, this Honorable Court did appoint George M. Bacon receiver of said Pacific Reclamation Company, a corporation, and all of its property and thereafter the said George M. Bacon duly qualified as such receiver, and ever since has been, and now is, the duly authorized, qualified and acting receiver

*Page-number appearing at foot of page of original certified Record.

of the said corporation, and by virtue of the authority vested in him by this court, has the possession, control and management of all the property, real personal and mixed, of said corporation.

VI. That between the 18th day of August, 1911, and the 1st day of March, 1913, intervenor herein, performed services as an attorney and counsellor at law for the defendant, Pacific Reclamation Company at their request, in prosecuting certain suits in the General Land Office and the Department of the Interior and in counselling and advising the defendant and in attending in and about the business of the defendant, in re,

(A) Carson City Serial No. 04408, involving relinquishments of eight (8) separate parcels of land, (B) Carson City Serial Nos. 06245, 06246, 06247, 06248, 06249, 06250, 06251 and 06252 (8 cases) involving script locations covering eight separate tracts in which cases adverse decisions were rendered by the Commissioner of the General Land Office, and appeals taken to the Secretary of the Interior (C) Carey Act Reclamation project, involving hearing before and conferences with the Department of the Interior, the Assistant Attorney General and the Interior Department, et al; and in re, Establishment of postoffice at Metropolis, Nevada.

VII. That the said services were reasonably worth the sum of twenty-five thousand (\$2,500) dollars.

VIII. That the defendant, Pacific Reclamation

Company had not paid [2] the same nor any part thereof.

IX. That intervenor, as the attorney and counsellor of said Pacific Reclamation Company, the above-named defendant in the above-entitled action, under and pursuant to the terms and provisions of paragraph 5276 of the Revised Laws of Nevada (1912) and being section 434 of "An Act to regulate proceedings in civil cases in this State and to repeal all other acts in relation thereto," has and claims a lien upon and against four hundred and eighty (480) acres of land owned by said Pacific Reclamation Company, said land being more particularly described as follows, to wit:

W. $\frac{1}{2}$ of SE. $\frac{1}{4}$, Section 26. E. $\frac{1}{2}$ of SW. $\frac{1}{4}$, Section 26. W $\frac{1}{2}$ of SW. $\frac{1}{4}$, Section 26. E. $\frac{1}{2}$ of SW. $\frac{1}{4}$, Section 26. SW. $\frac{1}{4}$ of NE. $\frac{1}{4}$, Section 34. NE. $\frac{1}{4}$ of SE. $\frac{1}{4}$ Section 34. NW. $\frac{1}{4}$ of SE. $\frac{1}{4}$, Section 34. SW. $\frac{1}{4}$ of SE. $\frac{1}{4}$, Section 34. All in T. 39, N. R. 61 E. M. D. M., Nevada, in the sum of twenty-five thousand (\$25,000) dollars for and on account of services rendered by him to the said Pacific Reclamation Company in the General Land Office and the Department of the Interior of the Government of the United States from August 8th, 1911, to March 1st, 1913, as an attorney and counsellor as above referred to, and upon an agreement by the said Pacific Reclamation Company to and with the said undersigned R. Woodland Gates, to pay said R. Woodland Gates a reasonable sum for his services rendered and to be rendered in said General Land Office and Department of the Interior.

X. Intervenor further alleges that no proceedings have been had and no other action has been brought for the recovery of said sum.

Wherefore, intervenor, R. Woodland Gates, prays that he may have a judgment against the said Pacific Reclamation Company, a corporation, for the sum of twenty-five thousand (\$25,000) dollars and that he may be decreed by this Honorable Court to have a lien on the four hundred and eighty (480) acres of land, more particularly described in paragraph IX of this bill in intervention, and that he be allowed a reasonable attorney's fee and his costs in this behalf sustained.

SWEENEY, MOREHOUSE & GRIFFIN,
Solicitors for Intervenor. [3]

State of Nevada,
County of Ormsby,—ss.

William W. Griffin, being duly sworn, deposes and says that he is one of the solicitors for R. Woodland Gates intervenor in the above-entitled action, and makes this verification for and on behalf of R. Woodland Gates for the reason that the said R. Woodland Gates is not now within the State of Nevada where deponent resides. That he has read the foregoing petition in intervention, knows the contents thereof and that the same is true to the best of his knowledge, information and belief.

WILLIAM W. GRIFFIN.

Subscribed and sworn to before me this 7th day of July, A. D. 1914.

[Seal]

JONATHAN PAYNE,
Notary Public in and for Ormsby County.

[Endorsed]: No. A-8. In the District Court of the United States for the District of Nevada. Joseph Gutman et al., Complainants, vs. Pacific Reclamation Company, a Corporation, Defendants. R. Woodland Gates, Intervenor, vs. Pacific Reclamation Company, a Corporation, Defendant. Bill in Intervention. Filed July 7, 1914. T. J. Edwards, Clerk. By H. D. Edwards, Deputy. Sweeney, Morehouse & Griffin, Carson City, Nevada, Solicitors for Intervenor. [4]

*In the United States District Court, Ninth Circuit,
State of Nevada.*

JOSEPH GUTMAN, et al.,

Complainants,

vs.

PACIFIC RECLAMATION COMPANY, a Corporation,

Defendant.

LINA BADT,

Intervenor,

vs.

PACIFIC RECLAMATION COMPANY, a Corporation and GEORGE M. BACON, Receiver Thereof,

Defendants.

COLUMBIA KNICKERBOCKER TRUST COMPANY, a Corporation,

Intervenor.

R. WOODLAND GATES,

Intervenor.

vs.

PACIFIC RECLAMATION COMPANY, a Corporation and GEORGE M. BACON, Receiver Thereof,

Defendants.

Affidavit of Service [of Notice of Motion to Strike, etc.].

State of Utah,

County of Salt Lake,—ss.

R. E. Mack, being first duly sworn, on oath says; That on Tuesday, the 21st day of July, A. D. 1914, at Salt Lake City and County, Utah, he deposited in the United States Postoffice, a true and correct copy of the hereunto attached notice of motion to strike to which was attached a true and correct copy of the hereunto attached motion to strike. That said copies were enclosed in a *seal* envelope, with postage thereon fully prepaid, and said envelope addressed in legible characters on the outside thereof as follows: Messrs. Sweeney, Morehouse & Griffin, Attorneys at Law, Carson City, Nevada.

R. E. MACK.

Subscribed and sworn to before me this 21st day of July, A. D. 1914.

[Seal]

HAROLD P. FABIAN,
Notary Public. [5]

*In the United States District Court, Ninth Circuit,
State of Nevada.*

JOSEPH GUTMAN et al.,

Complainants,

vs.

PACIFIC RECLAMATION COMPANY, a Corporation,

Defendant.

LINA BADT,

Intervenor.

vs.

PACIFIC RECLAMATION COMPANY, a Corporation and GEORGE M. BACON, Receiver Thereof,

Defendants.

COLUMBIA KNICKERBOCKER TRUST COMPANY, a Corporation,

Intervenor.

R. WOODLAND GATES,

Intervenor.

vs.

PACIFIC RECLAMATION COMPANY, a Corporation and GEORGE M. BACON, Receiver thereof,

Defendants.

Notice of Motion to Strike.

To R. Woodland Gates, Intervenor Above Named,
and to Messrs Sweeney, Morehouse & Griffin,
His Solicitors:

You and each of you will please take notice that the Columbia-Knickerbocker Trust Company, intervenor above named, will, by its solicitors, Messrs. Gifford, Hobbs & Beard and Messrs. Dey, Hoppaugh & Fabian, on the 3d day of August, A. D. 1914, at the hour of ten o'clock A. M., or as soon thereafter as counsel can be heard, call up for argument before the Court, the motions filed in said court, copies of which are attached hereto; said motions being motions to dismiss and strike your said complaint in intervention, and also to strike paragraph nine thereof and that part of the prayer in said complaint praying for a lien as in said paragraph nine of your bill in intervention described. upon the ground that it appears upon the face of the bill that the same is insufficient in fact to constitute a valid cause of action in equity, and that the same fails to set forth matters sufficient to entitle you to any relief against the Columbia-Knickerbocker Trust Company; said motions are made and will be based upon the records, filed and pleadings herein, and [6] upon this notice of motion.

Dated this 20th day of July, A. D. 1914.

GIFFORD, HOBBS & BEARD and

DEY, HOPPAUGH & FABIAN,

Solicitors for Intervenor, Columbia-Knickerbocker
Trust Co.

*In the United States District Court, Ninth Circuit,
State of Nevada.*

JOSEPH GUTMAN et al.,

Complainants,

vs.

PACIFIC RECLAMATION COMPANY, a Corporation,

Defendant.

LINA BADT,

Intervenor,

vs.

PACIFIC RECLAMATION COMPANY, a Corporation and GEORGE M. BACON, Receiver thereof,

Defendants.

COLUMBIA KNICKERBOCKER TRUST COMPANY, a Corporation,

Intervenor,

R. WOODLAND GATES,

Intervenor,

vs.

PACIFIC RECLAMATION COMPANY, a Corporation and GEORGE M. BACON, Receiver Thereof,

Defendants.

**Motion to Dismiss and Strike [Bill filed July 7,
1914].**

Comes now Columbia-Knickerbocker Trust Com-

pany, intervenor in the above-entitled action, by Messrs. Gifford, Hobbs & Beard and Messrs. Dey, Hoppaugh & Fabian, its solicitors, and moves to dismiss and strike from the files the complaint in intervention of R. Woodland Gates filed herein, upon the ground that it appears upon the face of the bill that the same is insufficient in fact to constitute a valid cause of action in equity, and that the allegations therein contained are insufficient to entitle the said intervenor, R. Woodland Gates, or any other person, to any relief against the Columbia-Knickerbocker Trust Company.

The said intervenor, Columbia-Knickerbocker Trust Company further moves to strike the whole of paragraph nine of said complaint in intervention and [7] that portion of the prayer in which the said intervenor, R. Woodland Gates, claims a lien on the 480 acres of land described in paragraph nine of his said complaint in intervention, upon the ground that it appears upon the face of the bill that the same is insufficient in fact to constitute a valid cause of action in equity or in any manner to entitle the said intervenor to the relief prayed for, and further that the allegations in said paragraph nine and said prayer fail to set forth matters sufficient to entitle the said intervenor, R. Woodland Gates, or any other person, to the relief prayed for, or any relief, against the Columbia-Knickerbocker Trust Company.

The foregoing motions will be made and based upon the records, files and pleadings herein.

Dated this 20th day of July, A. D. 1914.

GIFFORD, HOBBS & BEARD and
 DEY, HOPPAUGH & FABIAN,
 Solicitors for Intervenor, Columbia-Knickerbocker
 Trust Company.

[Endorsed]:—No. A-8. U. S. Dist. Court, Dist.
 Nevada. Joseph Gutman, et al. v. Pacific Reclama-
 tion Co. Motion to Strike and Motion to Dismiss
 the Gates Intervention.

Filed July 23d, 1914. T. J. Edwards, Clerk. [8].

**[Opinion and Order Filed October 10, 1914, Dismiss-
 ing Petition in Intervention.]**

*In the District Court of the United States, in and
 for the District of Nevada.*

JOSEPH GUTMAN et al.,

Complainants,

vs.

PACIFIC RECLAMATION COMPANY, a Cor-
 poration,

Defendants.

R. WOODLAND GATES,

Intervenor,

vs.

PACIFIC RECLAMATION COMPANY, and
 GEORGE M. BACON, Receiver Thereof,

Defendants.

The intervenor, R. Woodland Gates, having filed
 herein his bill in intervention, in which he asks
 judgment against the Pacific Reclamation Com-

pany for the sum of twenty-five thousand dollars, and that he be decreed by this Court to have a lien on 480 acres of land described in the bill, for services by him performed as attorney and counselor at law in prosecuting certain matters in the General Land Office and the Department of the Interior, and in counselling and advising the defendant, and in attending in and about the business of the defendant in re,

(A) Carson City Serial No. 04408, involving relinquishments of eight (8) separate parcels of land, (B) Carson City Serial Nos. 06245, 06246, 06247, 06248, 06249, 06250, 06251 and 06252 (eight cases) involving script locations covering eight separate tracts, in which cases adverse decisions were rendered by the Commissioner of the General Land Office and appeals taken to the Secretary of the Interior. (C) Carey Act Reclamation project, involving hearings before and conference with the Department of the Interior, the Assistant Attorney General for the Interior Department et al., and in re Establishment of postoffice at Metropolis, Nevada.

The lien is claimed under the provisions of paragraph 5376 of the Revised Laws of Nevada, being section 434 of the Civil Practice Act, the material portion of which reads as follows:

“The compensation of an attorney and counselor for his services is governed by agreement, express or implied, which is not restrained by law. From the commencement of an action, or the service of an

answer containing a counterclaim, the attorney who appears for a party has a lien upon his client's cause of action or counterclaim which attaches to a verdict, [9] report, decision, or judgment in his client's favor and the proceeds thereof, in whosoever hands they may come, and cannot be affected by any settlement between the parties before or after judgment.

The Columbia-Knickerbocker Trust Company, also an intervener, moves to dismiss and strike out the petition in intervention, on the ground that the same is insufficient in fact to constitute a valid cause of action in equity, or to entitle R. Woodland Gates, or any other person, to any relief against the Columbia-Knickerbocker Trust Company. It further moves to strike out all that portion of the bill in which R. Woodland Gates claims a lien, on the ground that it appears upon the face of the bill that the same is insufficient in fact to constitute a valid cause of action in equity, or in any manner to entitle the intervenor to the relief prayed for, particularly as against the Columbia-Knickerbocker Trust Company.

I am clearly of the opinion that the bill fails to set out facts sufficient to entitle the intervenor to an attorney's lien, or to bring him within the provisions of the Nevada statute which he invokes, therefore the motion to dismiss is granted.

The intervenor will be allowed twenty days within which to take such steps as he may be advised.

Done in open court this 10th day of October, 1914.

E. S. FARRINGTON,

District Judge.

[Indorsed]: No. A-8. In the District Court of the United States, in and for the District of Nevada. Joseph Gutman et al., Complainants, vs. Pacific Reclamation Company, a Corporation, Defendant. R. Woodland Gates, Intervenor, v. Pacific Reclamation Company and George M. Bacon, Receiver thereof, Defendants. Order Dismissing Petition in Intervention. Filed October 10, 1914. T. J. Edwards, Clerk. [10]

*In the District Court of the United States, in and
for the District of Nevada.*

JOSEPH GUTMAN et al.,

Complainants,

vs.

PACIFIC RECLAMATION CO., a Corporation,
Defendant.

R. WOODLAND GATES,

Intervenor,

vs.

PACIFIC RECLAMATION CO., a Corporation,
and GEORGE M. BACON, Receiver thereof,
Defendants.

Bill in Intervention [Filed November 21, 1914].

Comes now R. Woodland Gates, by his solicitors, Sweeney, Morehouse & Griffin, and by leave of Court first obtained, presents this, his bill in intervention, in the above-entitled cause and respectfully represents unto the Court:

1. That intervenor is a *bona fide* resident of the city of Washington, in the District of Columbia.

II. That the defendant, the Pacific Reclamation Company, is a corporation organized and existing under and by virtue of the laws of the State of Nevada and doing business and owning real and personal property in said State and having its principal place of business in the town of Metropolis, county of Elko, State of Nevada.

III. That on or about July 21st, 1911, the said Pacific Reclamation Company, defendant herein, employed this intervenor, as its attorney and counsellor-at-law, to commence certain actions and prosecute certain suits, in behalf of said Pacific Reclamation Company, before and in the General Land Office at Washington, D. C., and to attend in and about any and all business said Pacific Reclamation Company might have before said General Land Office or the Department of the Interior, but more especially in regard to said certain suits therein about to be commenced or pending.

IV. Your intervenor further alleges that said General Land Office at [11] Washington, D. C., is a department of the Department of the Interior and is a quasi-judicial tribunal and a court of record, and that the decisions of said General Land Office and of said Department of the Interior are not subject to review by the courts.

V. That pursuant to said employment, as mentioned in paragraph III of this petition in intervention, your intervenor, on the 8th day of August, 1911, entered and filed his appearance as an attorney and counsellor at law and as attorney and counsel for the said Pacific Reclamation Company before said General Land Office.

In Re.

(A) Carson City Serial No. 04408 involving relinquishments of eight (8) separate parcels of land.

(B) Carson City Serial Nos. 06245-06246-06247-06248-06249-06250-06251-06252 — (8) eight cases, involving script locations covering eight separate tracts in which adverse decisions were rendered by the Commissioner of the General Land Office, and appeals thereafter taken to the Secretary of the Interior.

(C) Carey Act Reclamation project, involving hearings before and conferences with the Secretary of the Interior, the Assistant Attorney General and officials of said Department of the Interior.

VI. Your intervenor further represents that said employment, aforementioned, continued from the 8th day of August, 1911, until the first day of March, 1913, and that continually during said time, intervenor performed professional services in prosecuting said suits, herein referred to before said General Land Office and said Department of the Interior.

VII. Your intervenor alleges that before any action could be taken in the matter referred to in paragraph V, section (B) herein, said cases being known as the "Bacon cases," it became necessary for him to obtain action in the case known as "Carson City Serial No. 04408" heretofore referred to in paragraph V, section (A) of this petition, this particular case being the case in which relinquishments had

been made by the company of the lands located by Bacon for said company in the eight cases, above referred to. [12]

Your intervenor further states that in the said relinquishment case (Carson City Serial No. 04408) a decision had already been prepared, when your intervenor took charge of said cases, for the signature of the Commissioner of the General Land Office, holding that said land, so referred to in said Carson City Serial No. 04408, could not be relinquished—and said adverse action had to be overcome. Your intervenor further alleges, that, after much effort and labor on his part, he succeeded in preventing said decision being signed by the Commissioner, as aforesaid, and obtained, in lieu thereof, a decision accepting the relinquishments.

VIII. Your intervenor further states that after he had succeeded in getting the eight (8) Bacon cases, so-called—in position to be favorably acted upon by the Commissioner, the General Land Office was notified by its Chief of Field Division, by way of protest, that said Bacon, he being the same Bacon who is now the receiver of said Pacific Reclamation Company, being then the company's agent, was disqualified under section 452 R. S. because he was a deputy mineral surveyor. And in this connection intervenor alleges that the said section of the Revised Statutes, so referred to, is an absolute statutory prohibition against location or entry of public land by an employee of the said General Land Office, and because of said violation of said section 452, above referred to, adverse decision was rendered by

the Commissioner. A motion was thereupon made by intervenor before the Commissioner for a reconsideration in said matter but after numerous conferences and hearings said Commissioner adhered to his former ruling.

IX. Your intervenor further states that thereupon he took a separate appeal in each of said cases, so above referred to, to the Secretary of the Interior and filed many affidavits and a lengthy brief in support of said appeals; that he made various efforts to have said cases, on appeal, made "special" by the secretary and made motions in that behalf but that said motions were denied. That about October, 1912, there having been a change in the personel of said Department of the Interior, your intervenor renewed his motions to have said cases made "special" and his motion was finally granted and thereafter, after much effort on the part of [13] intervenor and many oral and written arguments and conferences, a favorable decision was rendered by the secretary in each of the said cases, heretofore referred to in paragraph V section (B) of this petition, and known as the "Bacon cases."

Your intervenor alleges further that even after a favorable decision by the said Secretary of the Interior in the said cases many difficulties were encountered in the General Land Office, principally because of the decision of the Department in what is known as the Spaeth case in which the Department held that thereafter no approximation would be allowed in the matter of the location of soldiers' additional rights, but that notwithstanding said de-

cision your intervenor succeeded in having the said cases, heretofore referred to as the "Bacon cases," finally closed without regard to the decision of said Department in said Spaeth case.

Your intervenor further alleges that the land involved in the eight (8) townsite cases, herein referred to and known as the "Bacon cases" and more particularly described in paragraph V and section (B) of this petition aggregate 480 acres which is described as follows:

W. 1-2 of S. E. 1-4 Section 26

E. 1-2 of S. W. 1-4 Section 26

W. 1-2 of S. W. 1-4 Section 26

E. 1-2 of S. E. 1-4 Section 26

S. W. 1-4 of N. E. 1-4 Section 34

N. E. 1-4 of S. E. 1-4 Section 34

N. W. 1-4 of S. E. 1-4 Section 34

S. W. 1-4 of S. E. 1-4 Section 34

all in T. 39 N. R. 61, E. M. D., Nevada.

And your intervenor further alleges that all of said acreage and land, so above described, is now the property of the said Pacific Reclamation Company, and one of the main assets, if not the main asset, of said company; and that the judgment obtained from the Department of the Interior by and through the labor, efforts, work and skill of this intervenor alone, saved said property, so described, for and to the said Pacific Reclamation Company and that the said land was the identical land involved in the actions or action before the General Land Office and the Department of the Interior, in which intervenor appeared as counsel for said Pacific Re-

clamation Company, and without whose work and professional effort said land would have been lost to the said company. [14]

X. Your intervenor further alleges that the lands embraced in Carson City Serials, referred to in paragraph V, section (B) of this petition, compose 480 acres of the 640 acres which constitute the town of Metropolis, and that since the date of the filing of the application of said Bacon, who was acting for the said Pacific Reclamation Company and of which lands in question said Pacific Reclamation Company is the sole owner, about July 8th, 1911, as your intervenor is advised and believes and therefore states the fact to be, said company has expended upon the improvement of said town, including the said 480 acres hereinbefore referred to, and which were obtained through the professional efforts of this intervenor, between \$225,000 and \$250,000, said money having been expended for grading and laying sidewalks, building electric light and waterworks, constructing a hotel, laying out a park and making other improvements.

And your intervenor further states that he is advised and believes, and therefore charges the fact to be, that up to about the 24th day of May, 1912, more than forty buildings have been erected by citizens of said town of Metropolis, a number of which are upon said 480 acres of land, heretofore referred to; that a hotel costing approximately \$100,000 has been built by the company; that in addition to the other moneys which have been spent by the company and citizens for the benefit of the entire town, including the said

480 acres of land, said company has expended about \$22,000 on water mains which run through said 480 acres and has laid out on said acres the only park which the town contains; that a church, for which the company donated six lots has been under construction on said 480 acres and is being paid for by citizens of the town who are located upon portions of said 480 acres, heretofore referred to; that said company has expended \$2,700 for the construction on said 480 acres of a schoolhouse, which is attended by over sixty pupils.

XI. Your intervenor further alleges that the said Pacific Reclamation Company would have been greatly injured had this intervenor not been successful in the said "Bacon cases," and that not only was its great outlay in connection with the Carey project alone, amounting to several hundred thousand dollars, menaced, but its hotel and the large [15] expenditures made by it for schoolhouse and street improvements, parks, electric lights and waterworks would have been lost to said company.

XII. Your intervenor further alleges that he is advised and believes, and therefore charges the fact to be, that the said 480 acres gained by him for the company, were divided into about 3,840 lots; that according to the prospectus of the company the minimum price of lots, as advertised, is \$100 per lot and the maximum of \$1,500 per lot and placing upon the said lots the minimum valuation of \$100 per lot his labor and services have saved to the said company of \$384,000 and adding to this the value of the improvements, without considering the com-

pany's investment in its Carey Act project, the minimum value of the property involved in these so-called "Bacon cases" which was saved to the company through the efforts of this intervenor alone, can be reasonably fixed at \$500,000.

XIII. Your intervenor further alleges that he is aware that to secure the payment of certain bonds and the interest thereon, the said Pacific Reclamation Company, in pursuance of resolutions of its stockholders and directors duly adopted, on the 23d day of December, 1909, duly made, executed and delivered to the Columbia-Knickerbocker Trust Company, under its then name of Columbia Trust Company, as trustee, its certain mortgage in the form of trust deed, by which said Pacific Reclamation Company, granted, bargained, sold, assigned, transferred and conveyed unto said Columbia Trust Company and its successors and assigns, in the trust thereby created, forever all and singular the real, personal and mixed property, including all rents, issues, income, and profits of said property, situated in Elko County, State of Nevada, described in said mortgage—copy of which said mortgage is a part of the petition in intervention of the Columbia-Knickerbocker Trust Company, filed in the above-entitled cause.

XIV. And with respect to the said pretended rights of the said Knickerbocker Trust Company, trustee, intervenor alleges that at the time said trust deed was made by the said Pacific Reclamation Company to said Columbia-Knickerbocker Trust Company, said Pacific Reclamation Company was

in no wise the owner of the land involved in the so-called "Bacon cases" herein [16] referred to, and which comprise the said 480 acres of land obtained later through the labor and efforts of said intervenor for said Pacific Reclamation Company and that the rights, interests and claims of the said Columbia-Knickerbocker Trust Company, if any there be, are subject and subsequent to the lien and interest of this intervenor in the land involved in the said "Bacon cases," so-called, aggregating 480 acres, herein and heretofore described.

XV. Your intervenor admits and alleges that on or about the 21st day of March, 1913, Joseph Gutman, a judgment creditor of said corporation, Pacific Reclamation Company, together with twenty-eight other creditors or about that number, filed a bill of complaint in this court alleging that the Pacific Reclamation Company was unable to meet its obligations as they matured; that there was grave danger of a waste of its assets and that it was threatened with numerous actions at law; that it was wholly insolvent and that the business interests of said corporation, Pacific Reclamation Co., required the appointment of a receiver of said corporation in order to protect and conserve its property and assets—and praying that a receiver be appointed by the Court for the purposes, above mentioned, as well as to take possession of all of the property of said corporation and to manage, operate and control the same.

XVI. That on the 21st day of March, 1913, the Pacific Reclamation Company, through its attor-

neys, filed its answer in said cause, admitting the facts set forth in the bill of complaint and joining with Joseph Gutman and others, as complainants, in their request for the appointment of a receiver.

XVII. That on the said 21st day of March, 1913, this Honorable Court did appoint George M. Bacon, receiver of the said Pacific Reclamation Company, a corporation, and all of its property and thereafter said Bacon duly qualified as such receiver and is now the duly authorized and acting receiver of said corporation and by virtue of the authority vested in him by this court, has the possession, control and management of all the property, real, personal and mixed of said corporation.

XVIII. Your intervenor alleges that the services performed by him, as herein set forth, were reasonably worth the sum of \$25,000. [17]

XIX. That neither the defendant, the Pacific Reclamation Company nor the receiver thereof has paid any part of the same, although often requested so to do.

XX. Your intervenor further alleges that, as the attorney and counsellor of said Pacific Reclamation Company in commencing actions and prosecuting suits before the General Land Office and before the Department of Interior, and the secretary thereof, he claims and is entitled, under and pursuant to the terms and provisions of paragraph 5376 of the Revised Laws of Nevada (1912) being section 434 of "An Act to regulate proceedings" etc.—to a lien upon the 480 acres of land, heretofore particularly described and which said land was the land

involved in what is herein known as the "Bacon cases"—in the sum of \$25,000 for and on account of services performed and rendered by him for and on behalf of the Pacific Reclamation Company before the General Land Office and the Department of the Interior of the United States—said services having been more fully and particularly hereinbefore described—upon an agreement by the said Pacific Reclamation Company to and with the said R. Woodland Gates, Intervenor herein, to pay to said Gates a reasonable sum for his services rendered in said General Land Office and said Department of the Interior.

XXI. Intervenor alleges that no proceedings have been had and no other action brought for the recovery of said sum.

Wherefore, Intervenor, R. Woodland Gates, prays that he may have a judgment against the said Pacific Reclamation Company, a corporation, for the sum of *Twenty-five* (\$25,000) *Dollars* and that he may be decreed by this Honorable Court to have a lien on the 480 acres of land, heretofore more particularly described and which were saved to said Pacific Reclamation Company by the labor and industry of said intervenor—and that he be allowed a reasonable attorney's fee and his costs in this behalf sustained.

SWEENEY, MOREHOUSE & GRIFFIN,

Solicitors for R. Woodland Gates.

State of Nevada,

County of Ormsby,—ss.

William W. Griffin, being first duly sworn, deposes

and [18] says that he is one of the attorneys for the intervenor, R. Woodland Gates, in the above-entitled cause and makes this verification for and on behalf of the said R. Woodland Gates for the reason that the said R. Woodland Gates is not now within the State of Nevada, where deponent resides.

That he has read the foregoing petition in intervention and knows the contents thereof and that the same is true to the best of his knowledge, information and belief.

WILLIAM W. GRIFFIN.

Subscribed and sworn to before me this 21st day of November, A. D. 1914.

[Seal] JAMES G. SWEENEY,
Notary Public in and for Ormsby County, Nevada.

[Indorsed]: No. A.—8. In the District Court of the United States for the District of Nevada. Joseph Gutman et al., Plaintiffs, vs. Pacific Reclamation Company, Defendant. Bill in Intervention of R. Woodland Gates. Filed November 21st, 1914. T. J. Edwards, Clerk. Sweeney, Morehouse and Griffin, Carson City, Nevada, Attorneys for R. Woodland Gates. [19]

[**Motion to Dismiss and Strike Bill Filed November
21, 1914.**]

*In the District Court of the United States, in and
for the District of Nevada.*

JOSEPH GUTMAN et al.,

Complainants,

vs.

PACIFIC RECLAMATION COMPANY, a Corpo-
ration,

Defendant.

LINA BADT,

Intervenor,

vs.

PACIFIC RECLAMATION COMPANY, a Corpo-
ration, and

GEORGE M. BACON, Receiver Thereof,

Defendants.

COLUMBIA-KNICKERBOCKER TRUST COM-
PANY, a Corporation,

Intervenor,

R. WOODLAND GATES,

Intervenor,

vs.

PACIFIC RECLAMATION COMPANY, a Corpo-
ration, and

GEORGE M. BACON, Receiver Thereof,

Defendants.

Comes now Columbia-Knickerbocker Trust Com-
pany, intervenor in the above-entitled action, by

Messrs. Gifford, Hobbs & Beard and Messrs. Dey, Hoppaugh & Fabian, its solicitors, and moves to dismiss and strike from the files herein paragraph XIV and XX of the bill in intervention of R. Woodland Gates, and also the entire bill in intervention, filed in the above-entitled cause on or about the 21st day of November, A. D. 1914, upon the following grounds, to wit:

1st. That the matters and things in said petition in intervention set forth have been heretofore adjudged and determined against said R. Woodland Gates, intervenor. That on or about the 7th day of July, A. D. 1914, the said intervenor filed a petition in intervention herein; and thereafter, on or about the 23d day of July, A. D. 1914, the said Columbia-Knickerbocker Trust Company moved to dismiss and strike from the files said petition and complaint in intervention so filed and that this Court thereafter, upon said matter being submitted on the bill in intervention and the motion to dismiss and strike, sustained said motion and dismissed and struck said petition [20] in intervention from the files, and that the judgment therein was upon the merits.

2d. The intervenor, Columbia-Knickerbocker Trust Company moves to dismiss and strike from the files paragraphs XIV and XX and that portion of the prayer in which the intervenor, R. Woodland Gates, claims a lien on 480 acres of land described in said petition in intervention, upon the ground that it appears upon the face of the bill that the same is insufficient in fact to constitute a valid cause in equity or in any manner to entitle the said inter-

venor, R. Woodland Gates, to the relief prayed for, and further that the allegations in said paragraphs of said petition in intervention and in said prayer fail to set forth matters sufficient to entitle the intervenor, R. Woodland Gates, or any other person, to the relief prayed for, or any relief against the Columbia-Knickerbocker Trust Company.

The foregoing motions will be made and based upon the records, files and pleadings herein.

Dated this 2d day of January, A. D. 1915.

GIFFORD, HOBBS & BEARD and
DEY, HOPPAUGH & FABIAN,
Solicitors for Intervenors, Columbia-Knickerbocker
Trust Co.

[Indorsed]: No. A.-8. U. S. District Court, Dist. Nevada. Joseph Gutman et al. vs. Pacific Reclamation Co. Motion to Strike Gates' Intervention. Filed January 6th, 1915. T. J. Edwards, Clerk.
[21]

**[Order Striking Certain Portions of Petition in
Intervention.]**

Minutes of Court, July 24th, 1915.

A.-8.

“JOSEPH GUTMAN et al.

vs.

PACIFIC RECLAMATION CO.

The motion of the Columbia-Knickerbocker Trust Company, intervenor herein, to strike the petition in intervention of R. Woodland Gates, having been

argued and submitted by counsel, and the same having been duly considered by the Court, it is now ordered that paragraphs 14 and 20 of the Gates petition, and also that portion of the prayer thereof in which the petitioner claims a lien on the 480 acres of land described in said paragraph 14, be, and are hereby, stricken out; and that said intervenor have twenty days' time to take such steps as advised."

[22]

[Opinion Filed July 24, 1915.]

*In the District Court of the United States, in and for
the District of Nevada.*

JOSEPH GUTMAN et al.,

Complainants,

vs.

PACIFIC RECLAMATION COMPANY, a Corporation,

Defendant,

COLUMBIA-KNICKERBOCKER TRUST COMPANY, a Corporation,

Intervenor,

R. WOODLAND GATES,

Intervenor,

vs.

PACIFIC RECLAMATION COMPANY, a Corporation, and GEORGE M. BACON, Receiver
Thereof,

Defendants.

WILLIAM W. GRIFFIN and SWEENEY &
MOREHOUSE,

For Intervenor, R. Woodland Gates.

GIFFORD, HOBBS & BEARD, DEY, HOP-
PAUGH & FABIAN,

For Intervenor, Columbia-Knickerbocker
Trust Company.

HARWOOD & SPRINGMEYER,

For the Receiver.

FARRINGTON, District Judge:

July 10, 1914, R. Woodland Gates filed his petition in intervention, alleging in substance, that between August 18, 1911, and March 1, 1913, he performed services as attorney and counselor at law for the Pacific Reclamation Company in prosecuting certain suits in the General Land Office and the Department of the Interior, in counseling and advising the defendant, and in attending in and about defendant's business, in re (a) Carson City Serial No. 04408, involving relinquishment of eight separate parcels of land; (b) eight cases involving script locations, covering eight separate tracts, in which cases adverse decisions were rendered by the Commissioner of the General Land Office, and appeals taken to the Secretary of the Interior; (c) hearings before and conferences with the Department of the Interior, the assistant attorney-general, [23] and others, in relation to Carey Act reclamation project; also in re-establishment of post office at Metropolis, Nevada.

It was alleged that the reasonable value of the service was \$25,000.

The intervenor claimed a lien under section 5376 of the Revised Laws of Nevada, against 480 acres of land owned by the Reclamation Company.

The relief demanded was a judgment against the Reclamation Company for \$25,000, and a decree that intervenor has a lien on said 480 acres of land.

On motion of the Columbia-Knickerbocker Trust Company and of the receiver, the bill in intervention was dismissed on the ground that petitioner had failed to set out facts sufficient to entitle him to a lien against the land described, or to bring him within the provisions of section 5376.

The order of dismissal was entered October 10, 1914, and allowed Gates twenty days thereafter within which to take such steps as he might be advised. This time was subsequently enlarged by the Court.

November 21, 1914, Gates filed a new bill, incorporating the provisions of his original bill, and adding thereto, in substance, as follows:

The General Land Office at Washington, D. C., is a quasi-judicial tribunal, a court of record, and its decisions are not subject to review by the courts. There is a detailed statement of services performed in the land office, showing that petitioner procured the acceptance of relinquishments of eight distinct tracts of land; that on appeal to the Secretary of the Interior, he secured a reversal of the ruling of the Commissioner holding that receiver Bacon, because he was a deputy United States mineral surveyor, was disqualified to enter the eight tracts of land for the Reclamation Company.

The bill also states that the land involved is one

of the main assets of the company; that it would have been lost to the company but for the efforts of the intervenor, and is reasonably worth half a million dollars; that the Pacific Reclamation Company December 23, 1909, conveyed all its property by trust deed to the Columbia-Knickerbocker Trust Company, under the then name of Columbia Trust Company. This conveyance was executed at a time when the Reclamation Company was in no wise the owner of the [24] 480 acres. The bill concludes with the same prayer which closes the bill of July 10, 1914, but no compensation is asked in connection with the establishment of a postoffice at Metropolis.

The Columbia-Knickerbocker Trust Company, January 6, 1915, moved "to dismiss and strike from the files paragraph XIV and XX, and that portion of the prayer in which the intervenor, R. Woodland Gates, claims a lien on 480 acres of land described in the petition in intervention, upon the ground that it appears upon the face of the bill that the same is insufficient in fact to constitute a valid cause in equity, or in any manner to entitle the said intervenor, R. Woodland Gates, to the relief prayed for, and further that the allegations in said paragraphs of said petition in intervention and in said prayer fail to set forth matters sufficient to entitle the intervenor, R. Woodland Gates, or and other person, to the relief prayed for, or any relief against the Columbia-Knickerbocker Trust Company."

The Trust Company also urges that the subject matter on which the lien is based, the lien claimed, and the so-called tribunal in which the services were

rendered, are identical in both bills, and were disposed of in the decision of October 10, 1914.

The last objection is well taken. The claim is to precisely the same lien which is urged in the original bill, and is foreclosed by the decision referred to.

Counsel for petitioner ask me to examine a number of recently discovered authorities bearing on their original contentions. The Nevada statute to which the intervenor appeals, reads as follows:

“From the commencement of an action, or the service of an answer containing a counterclaim, the attorney who appears for a party has a lien upon his client’s cause of action or counterclaim which attaches to a verdict, report, decision, or judgment in his client’s favor and the proceeds thereof in whose-soever hands they may come, and cannot be affected by any settlement between the parties before or after judgment.”

It will be observed that the lien provided for here dates from the commencement of an action, or from the service of the answer, provided [25] such answer contains a counterclaim. The lien lies on the “cause of action or counterclaim,” and attaches to the “verdict, report, decision, or judgment in his client’s favor and the proceeds thereof.”

The reference is to civil actions only. The statute quoted is a part of the Civil Practice Act, which elsewhere (Secs. 4943-4) states there shall be in this State but one form of civil action for the enforcement or protection of private rights, and the redress or prevention of private wrongs. In such action the party complaining shall be known as the plaintiff,

and the adverse party as the defendant.

Our Supreme Court in *Haley vs. Eureka County Bank*, 21 Nevada, 127, defines an action thus: "An action is a legal prosecution by a party complainant, against a party defendant, to obtain the judgment of the court in relation to some rights claimed to be secured, or some remedy claimed to be given by law to the party complaining."

Unquestionably the word "action" as used in this connection applies to ordinary proceedings in courts of justice, prosecuted by one party as plaintiff against another party as defendant. Every other civil remedy is a special or quasi-judicial proceeding.

In order to enjoy the lien provided by the Nevada statutes, Gates must bring himself within its terms. This, in my opinion, he has not done. His services were rendered in proceedings before the United States Land Office, and in the Department of the Interior. There was neither plaintiff nor defendant; he guided the Pacific Reclamation Company in its efforts to procure title from the United States Government to lands which it desired to purchase. So far as the bill shows, there was no rival entryman seeking the same land.

The cases cited in behalf of Gates are beside this issue.

In *Renick vs. Ludington*, 16 W. Va., 378, it was held that the attorney was entitled to a *line* upon a judgment which he had obtained for his clients in a common law action brought on a contract.

In *Kappler v. Sumpter*, 33 App. Cas. (D. C.) 404, 408, there was a decree directing a writ of mandamus

to issue against the Secretary of the Interior, requiring him to restore complainant's name to the official [26] rolls of Chickasaw nation; the attorney claimed a lien on the lands which his client would receive in consequence of the decree as a member of that tribe of Indians.

In *Hartman v. Swiger*, 215 Fed., 986, the attorneys had in their hands more than four thousand dollars on which they claimed a lien for fees earned in numerous pieces of litigation. The principle on which this case was determined is set out in 4 Cyc., 1005.

In none of these cases was a lien either granted or claimed for services similar to those set out in the present petition in intervention.

The statute of New York, prior to 1899, contained the same provision as to attorneys' liens which appears in the Compiled Laws of Nevada.

In *Deering v. Schreyer*, 52 N. Y. Supp., 203, condemnation proceedings before commissioners resulted in a report awarding Schreyer \$2,250 for his lots on Lexington Avenue, New York City. An attorney's lien was claimed on this judgment. It was held that this was a special proceeding; that the lien given by the statute applied only to causes of action to enforce which an action had been commenced, or to recover which an answer containing a counterclaim had been served,

In *Goodrich v. McDonald*, 112 N. Y., 162, it is said that an attorney has two kinds of liens: He may retain all the papers of his client in his possession until his claim for services has been discharged; this

is known as a retaining lien; an attorney also has a lien for his compensation upon the funds or judgment which he had recovered; this is termed a charging lien. The Court thus states the method by which a charging lien may be enforced:

“If the fund recovered was in possession or under the control of the Court, it would not allow the client to obtain it until he had paid his attorney, and in administering the fund it would see that the attorney was protected. If the thing recovered was in a judgment, and notice of the attorney’s claim had been given, the Court would not allow the judgment to be paid to the prejudice of the attorney. If paid after such notice, in disregard of his right, the Court would, upon motion, set aside the discharge of the judgment, and allow the attorney [27] to enforce the judgment by its process so far as was needful for his protection. But after a very careful search we have been unable to find any case where an attorney has been permitted to enforce his lien upon a judgment for his services by an equitable action, or where he has been permitted to follow the proceeds of a judgment after payment of them to his client. His lien is made upon the judgment, and the Court will enforce that through the control it has of the judgment and its own records, and by means of its own process, which may be employed to enforce the judgment. But after the money recovered has been paid to his client, he has no lien upon that, and much less lien upon property purchased with that money, and transferred to another.”

In *Adee v. Adee*, 62 N. Y. Supp., 1101, the Court

held that an attorney had no lien on his client's interest in an estate, concerning which the attorney was employed in the Surrogates Court, because there was no cause of action or counterclaim within the meaning of the statute.

No authorities have been cited by the intervenor which *is* any wise modify the view expressed in the New York cases. I am therefore constrained to grant the motion of the Columbia-Knickerbocker Trust Company.

The whole of paragraphs XIV and XX of said complaint in intervention, and that portion of the prayer in which said intervenor claims a lien on the 480 acres of land described in paragraph IX, are stricken.

The intervenor will have twenty days within which to take such steps as he may be advised.

[Indorsed]: No. A-8. In the District Court of the United States, in and for the District of Nevada. Joseph Gutman, et al., Complainants, vs. Pacific Reclamation Company, a Corporation, Defendant. R. Woodland Gates, Intervenor. Opinion. Filed July 24th, 1915, T. J. Edwards, Clerk. [28]

[**Exceptions of Intervenor to Order, etc.**]

*In the District Court of the United States for the
District of Nevada.*

JOSEPH GUTMAN et al.,

Complainants,

vs.

PACIFIC RECLAMATION COMPANY, a Corpo-
ration,

Defendant.

R. WOODLAND GATES,

Intervenor,

vs.

PACIFIC RECLAMATION COMPANY, a Corpo-
ration, and GEORGE M. BACON, Receiver
Thereof,

Defendants.

Comes now the intervenor, R. Woodland Gates, by his solicitors, Sweeney, Morehouse and Griffin, and excepts to the order, judgment and decree of this Court in sustaining the motion to strike paragraphs XIV and XX of the bill in intervention of R. Woodland Gates, intervenor herein, or any part thereof, filed November 21, 1914.

And the intervenor further excepts to the order, judgment and decree of this Court in sustaining the motion to strike "also that portion of the prayer thereof in which the petitioner claims a lien on the 480 acres of land described in said paragraph XIV of said petition."

Because said order, judgment and decree is contrary to law.

SWEENEY, MOREHOUSE & GRIFFIN,
Solicitors for Intervenor R. Woodland Gates.

The foregoing Exceptions are allowed this 24th day of July, 1915.

E. S. FARRINGTON,
District Judge.

[Indorsed]: No. A-8. In the District Court of the United States, for the District of Nevada. Joseph Gutman, et al., Complainants, vs. Pacific Reclamation Company, a Corporation, Defendant. R. Woodland Gates, Intervenor, vs. Pacific Reclamation Company, a Corporation, and George M. Bacon, Receiver Thereof, Defendants. Exceptions. Sweeney, Morehouse and Griffin, Carson City, Nevada, Solicitors for Intervenor. Filed August 12, 1915. T. J. Edwards, Clerk. By H. D. Edwards, Deputy Clerk.

[29]

*In the District Court of the United States for the
District of Nevada.*

JOSEPH GUTMAN et al.,

Complainants,

vs.

PACIFIC RECLAMATION COMPANY, a Corporation,

Defendant.

R. WOODLAND GATES,

Intervenor,

vs.

PACIFIC RECLAMATION COMPANY, a Corporation, and GEORGE M. BACON, Receiver Thereof,

Defendants.

Order Allowing Appeal, etc.

On motion of James G. Sweeney, Esq., one of the solicitors and counsel for R. Woodland Gates, intervenor herein, it is hereby,

ORDERED, that an appeal to the United States Circuit Court of Appeals for the Ninth Circuit, from the order, judgment and decree heretofore filed and entered herein, July 24, 1915, be, and the same is hereby allowed and that a certified transcript of the record, testimony, exhibits, stipulations, and all proceedings, be forthwith transmitted to the said United States Circuit Court of Appeals for the Ninth Circuit. It is further ordered that the bond on appeal be fixed at the sum of Five Hundred (\$500) dollars.

Dated August 13th, 1915.

E. S. FARRINGTON,
United States District Judge.

[Indorsed]: No. A-8. In the District Court of the United States, for the District of Nevada. Joseph Gutman, et al., Complainants, vs. Pacific Reclamation Co., a Corporation, Defendant. R. Woodland Gates, Intervenor, vs. Pacific Reclamation Company, a Corporation, and George M. Bacon, Receiver

Thereof, Defendants. Order allowing Appeal. Filed August 14, 1915. T. J. Edwards, Clerk. By H. D. Edwards, Deputy. [30]

[Petition for Appeal]

*In the District Court of the United States for the
District of Nevada.*

JOSEPH GUTMAN et al.,

Complainants,

vs.

PACIFIC RECLAMATION COMPANY, a Corporation,

Defendant.

R. WOODLAND GATES,

Intervenor,

vs.

PACIFIC RECLAMATION COMPANY, a Corporation, and GEORGE M. BACON, Receiver Thereof,

Defendants.

To the Honorable E. S. FARRINGTON, District Judge.

The above-named R. Woodland Gates feeling aggrieved by the order, judgment and decree rendered and entered in the above-entitled cause on the 24th day of July, 1915, does hereby appeal from said order, judgment and decree to the Circuit Court of Appeals of the Ninth Circuit, for the reasons set forth in the assignment of errors filed herewith, and he prays that his appeal be allowed and that citation be

issued as provided by law, and that a transcript of the record, proceedings and documents upon which said decree was based, duly authenticated, be sent to the United States Circuit Court of Appeals for the Ninth Circuit, under the rules of said court in such cases made and provided.

Your petitioner further prays that the proper order relating to the required security to be required of him be made.

SWEENEY, MOREHOUSE & GRIFFIN,
Solicitors for R. Woodland Gates.

[Indorsed]: No. A-8. In the District Court of the United States, for the District of Nevada. Joseph Gutman, et al., Complainants, vs. Pacific Reclamation Company, a Corporation, Defendant. R. Woodland Gates, Intervenor, vs. Pacific Reclamation Co., a Corporation, and George M. Bacon, Receiver Thereof, Defendants. Filed August 14, 1915. T. J. Edwards, Clerk. By H. D. Edwards, Deputy.
[31]

*In the District Court of the United States, for the
District of Nevada.*

JOSEPH GUTMAN et al.,

Complainants,

vs.

PACIFIC RECLAMATION COMPANY, a Corporation,

Defendant.

R. WOODLAND GATES,

Intervenor,

vs.

PACIFIC RECLAMATION COMPANY, a Corporation, and GEORGE M. BACON, Receiver Thereof,

Defendants.

Assignment of Errors.

Now comes R. Woodland Gates, intervenor in the above-entitled cause, and filed the following assignment of errors, upon which he will rely upon his prosecution of the appeal in the above-entitled cause, from the order, judgment and decree made by this Honorable Court on the 24th day of July, 1915.

I. That the United States District Court for the District of Nevada erred in sustaining the motion to strike interposed by the Columbia-Knickerbocker Trust Company to the bill in intervention of R. Woodland Gates, or any part thereof, filed in this cause November 21, 1914.

II. That the United States District Court for the District of Nevada erred in sustaining the motion to strike paragraph XIV of said bill in intervention—which said paragraph was in words and figures following, to wit:

“XIV. And with respect to the said pretended rights of the said Columbia-Knickerbocker Trust Company, trustee, intervenor alleges that at the time said trust deed was made by the said Pacific Reclamation Company to said Columbia Trust Company, said Pacific

Reclamation Company was in now wise the owner of the land involved in the so-called 'Bacon cases' herein referred to and which comprise the said 480 acres of land obtained later through the labor and efforts of said intervenor for said Pacific Reclamation Company, and that the rights, interests and claims of the said [32] Columbia-Knickerbocker Trust Company, if any there be, are subject and subsequent to the lien and interest of this intervenor in the land involved in the said 'Bacon Cases,' so-called, aggregating 480 acres, herein and heretofore described."

III. That the United States District Court for the District of Nevada erred in sustaining the motion to strike paragraph XX of said bill in intervention, which said paragraph was in words and figures following, to wit:

"XX. Your intervenor further alleges that as the attorney and counsellor of said Pacific Reclamation Company in commencing actions and prosecuting suits before the General Land Office and before the Department of the Interior and the secretary thereof, he claims and is entitled under and pursuant to the terms and provisions of paragraph 5376 of the Revised Laws of Nevada (1912) being section 434 of 'An Act to regulate proceedings,' etc., to a lien upon the 480 acres of land, heretofore particularly described and which said land was the land involved in what is herein known as the 'Bacon cases'—in the sum of \$25,000.00 for and on ac-

count of services performed and rendered by him for and on behalf of the Pacific Reclamation Company before the General Land Office and the Department of the Interior of the United States—said services having been more fully and particularly hereinbefore described—upon an agreement by the said Pacific Reclamation Company to and with the said R. Woodland Gates, intervenor herein, to pay to said Gates a reasonable sum for his services rendered in said General Land Office and said Department of the Interior.”

IV. That the District Court of the United States for the District of Nevada erred in sustaining the motion to strike “also that portion of the prayer thereof in which the petitioner claims a lien on the 480 acres of land, described in said paragraph XIV,” which said portion of said prayer of said petition was in words and figures following, to wit:

“And that he (intervenor meaning) may be decreed to have a lien on the 480 acres of land heretofore more particularly described and which were saved to said Pacific Reclamation Company by the labor and industry of [33] said intervenor.”

Because said order, judgment and decree sustaining said motions to strike is contrary to law and justice.

Wherefore, the appellant, R. Woodland Gates, prays that the said decree be reversed, and the said District Court of the United States for the District of Nevada be ordered to enter a decree reversing

the decision of the lower court in said cause.

SWEENEY, MOREHOUSE & GRIFFIN,
Solicitors for Appellant, R. Woodland Gates.

[Indorsed]: No. A-8. In the District Court of the United States, for the District of Nevada. Joseph Gutman, et al., Complainants, vs. Pacific Reclamation Company, a Corporation, Defendant. R. Woodland Gates, Intervenor, vs. Pacific Reclamation Company, a Corporation, and George M. Bacon, Receiver Thereof, Defendants. Assignment of Error. Filed August 14, 1915. T. J. Edwards, Clerk. By H. D. Edwards, Deputy. Sweeney, Morehouse and Griffin, Carson City, Nev., Solicitors for Intervenor. [34]

*In the District Court of the United States, for the
District of Nevada.*

JOSEPH GUTMAN et al.,

Complainants,

vs.

PACIFIC RECLAMATION COMPANY, a Corporation,

Defendant,

R. WOODLAND GATES,

Intervenor,

vs.

PACIFIC RECLAMATION COMPANY, a Corporation, and GEORGE M. BACON, Receiver Thereof,

Defendants.

Bond on Appeal.

KNOW ALL MEN BY THESE PRESENTS, that we, R. Woodland Gates, as principal, and Chas. J. Rulison and George Gillson, as sureties, of the county of Ormsby, State of Nevada, are held and firmly bound unto the Columbia-Knickerbocker Trust Company, a corporation, in the sum of five hundred (\$500) dollars, lawful money of the United States, to be paid to them, and their respective executors, administrators and successors; to which payment, well and truly to be made, we bind ourselves, and each of us, jointly and severally, and each of our heirs, executors and administrators by these presents.

Sealed with our seals and dated this 13th day of August, 1915.

Whereas, the above-named R. Woodland Gates, has prosecuted an appeal to the United States Circuit Court of Appeals for the Ninth Circuit, to reverse the judgment of the District Court of the United States for the District of Nevada, in the above-entitled cause.

Now, Therefore, the condition of this obligation is such, that if the above-named R. Woodland Gates shall prosecute his said appeal to effect and answer all costs, if he fail to make good his plea, then this obligation shall be void, otherwise to remain in full force and effect.

R. WOODLAND GATES,
By JAMES G. SWEENEY,
His Attorney.

CHAS. J. RULISON.
GEORGE GILLSON. [35]

State of Nevada,
County of Ormsby,—ss.

On the 16th day of August, 1915, personally appeared before me, Chas. J. Rulison and George Gillson, respectively known to me to be the persons described in and duly executed the foregoing instrument as parties thereto, and respectively acknowledged, each for himself, that they executed the same as their free act and deed for the purposes therein set forth.

And the said Chas. J. Rulison and George Gillson, being respectively by me duly sworn says, each for himself and not one for the other, that he is a resident and householder of the said county of Ormsby, and that he is worth the sum of five hundred (\$500) dollars, over and above his just debts and legal liability and property exempt from execution.

CHAS. J. RULISON.
GEORGE GILLSON.

Subscribed and sworn to before me this 16th day of August, 1915.

[Seal]

JONATHAN PAYNE,
Notary Public.

The within bond is approved both as to sufficiency and form this 16th day of August, 1915.

E. S. FARRINGTON,
District Judge.

[Indorsed]: No. A-8. In the District Court of the United States, for the District of Nevada. Joseph Gutman, et al., Complainants, vs. Pacific

Reclamation Company, a Corporation, Defendant.
R. Woodland Gates, Intervenor, vs. Pacific Reclamation Company, a Corporation, and George M. Bacon, Receiver Thereof, Defendants. Bond on Appeal. Filed August 16, 1915. T. J. Edwards, Clerk. By H. D. Edwards, Deputy. Sweeney, Morehouse and Griffin, Carson City, Nevada, Solicitors for Intervenor. [36]

*In the District Court of the United States in and
for the District of Nevada.*

JOSEPH GUTMAN et al.,

Complainants,

vs.

PACIFIC RECLAMATION COMPANY et al.,
Defendants.

COLUMBIA-KNICKERBOCKER TRUST COMPANY, Trustee,

Intervenor,

and

R. WOODLAND GATES,

Intervenor.

Praecipe [of Solicitors for Columbia-Knickerbocker Trust Co., Intervenor, for Additional Portions of the Record].

To the Clerk of the Above-entitled Court:

You will please prepare and incorporate into the transcript in the above-entitled cause on appeal, the following additional portions of the record:

1. First bill in intervention of R. Woodland

Gates (filed on or about July 7th, 1914).

2. Motion of Columbia-Knickerbocker Trust Company to dismiss and strike *first* bill in intervention of R. Woodland Gates (being order sustaining motion to dismiss and strike complaint in intervention which was filed July, 1914).

Dated this 21st day of August, 1915.

CHARLES C. DEY,
A. L. HOPPAUGH,
H. P. FABIAN,

Solicitors for Columbia-Knickerbocker Trust Co.,
Intervenor.

[Indorsed]: No. A-8. In the District Court of the United States, for the District of Nevada. Joseph Gutman, et al., Complainants, vs. Pacific Reclamation Company, et al., Defendants. Columbia-Knickerbocker Trust Company, Trustee, Intervenor, and R. Woodland Gates, Intervenor. Praecipe for Additional Portions of the Record. Filed August 23d, 1915. T. J. Edwards, Clerk. By H. D. Edwards, Deputy. [37]

*In the District Court of the United States for the
District of Nevada.*

JOSEPH GUTMAN et al.,

Complainants,

vs.

PACIFIC RECLAMATION COMPANY, a Cor-
poration,

Defendant.

R. WOODLAND GATES,

Intervenor.

vs.

PACIFIC RECLAMATION CO., a Corporation,
and GEORGE M. BACON, Receiver Thereof,
Defendants.

**Praecipe [of Solicitors for Intervenor, R. Woodland
Gates for Transcript of Record].**

To the Clerk of the Above-entitled Court:

Please prepare transcript in the above-entitled case, for the United States Circuit Court of Appeals, as follows:

1. Bill in Intervention of R. Woodland Gates filed November 21, 1914.
2. Demurrer or Motion to Strike of the Columbia-Knickerbocker Trust Company.
3. Order Sustaining Demurrer or Motion to Strike.
4. Opinion of Court, if any.
5. Petition for Appeal.
6. Assignments of Error.
7. Order Allowing Appeal.
8. Bond on Appeal.
9. Praecipe (for Transcript of Record).
10. Citation on Appeal.

SWEENEY, MOREHOUSE & GRIFFIN,
Solicitors for Intervenor, R. Woodland Gates. [38]

Service of the foregoing by copy acknowledged this 19th day of August, 1915.

DEY, HOPPAUGH & FABIAN,
Solicitors for Columbia-Knickerbocker Trust Co.

[Endorsed]: No. A-8. In the District Court of the United States, for the District of Nevada. Joseph Gutman, et al., Complainants, vs. Pacific Reclamation Co., a Corporation, Defendant. R. Woodland Gates, Intervenor, vs. Pacific Reclamation Co., a Corporation, and George M. Bacon, Receiver Thereof, Defendants. Praecipe (for Transcript of Record). Filed August 23, 1915. T. J. Edwards, Clerk. By H. D. Edwards, Deputy. Sweeney, Morehouse and Griffin, Carson City, Nevada, Solicitors for Intervenor. [39]

In the District Court of the United States, in and for the District of Nevada.

JOSEPH GUTMAN et al.,

Complainants,

vs.

PACIFIC RECLAMATION COMPANY et al.,

Defendants.

COLUMBIA-KNICKERBOCKER TRUST COMPANY, Trustee,

Intervenor.

and

R. WOODLAND GATES,

Intervenor.

Praecipe [of Solicitors for Intervenor, R. Woodland Gates] for Additional Portions of the Record.

To the Clerk of the Above-entitled Court:

You will please prepare and incorporate into the transcript in the above-entitled cause on appeal, the following additional portions of the record: 1. “Ex-

ceptions" filed on behalf of intervenor, R. Woodland Gates, August 12th, 1915; 2. "Proceedings" had in Open Court, June 28, 1915.

W. W. GRIFFIN, SWEENEY & MOREHOUSE,

Solicitors for Intervenor, R. Woodland Gates.

[Indorsed]: No. A.-8. In the District Court of the United States, in and for the District of Nevada. Joseph Gutman et al., Complainants, vs. Pacific Reclamation Company et al., Defendants. Columbia-Knickerbocker Trust Company, Trustee, Intervenor, and R. Woodland Gates, Intervenor. Praecipe for Additional Portions of the Record. Sweeney, Morehouse & Griffin, Carson City, Nevada, Solicitors for Intervenor R. Woodland Gates. Filed September 20, 1915. T. J. Edwards, Clerk. By H. D. Edwards, Deputy. [40]

**[Proceedings Had June 28, 1915, on Motion to Strike
Petition in Intervention.]**

The above-entitled matter came on for hearing on June 28, 1915, before the Honorable E. S. Farrington, U. S. District Judge, on motion to strike the petition in intervention of R. Woodland Gates from the files, at which time the following proceedings occurred:

Mr. HOPPAUGH.—Some time last July, as your Honor will remember, a complaint in intervention was filed in this cause by R. Woodland Gates. The complaint in intervention set up, substantially, that Mr. Gates had rendered services in the Department of the Interior, and on appeal, and in securing a

postoffice for the town of Metropolis; and by virtue of these services Mr. Gates asked that there be allowed the sum of \$25,000 as a preferred claim, paramount to the other claims, against 480 acres of land. The matter came up on motion to strike, as your Honor will remember. Our position was that the statute of the State of Nevada dealing with attorneys and referring to actions, and the proceeds of actions, did not aid the parties. The question was raised squarely on the merits; it was not a matter of form; it was a matter of substance; briefs were presented, and your Honor, after a full discussion of the question, sustained our motion, and struck the complaint in intervention. If the ruling of the Court were wrong, the intervenor, of course, would have his appeal, but so long as that ruling remains, it is the law of the case.

If there were any way of aiding the allegations of the complaint in intervention, perhaps an amendment would lie; but an amended complaint in intervention would set out substantially those same allegations, and to cloud the record with a new complaint in intervention covering exactly the same items, would be almost akin to contempt of court. Counsel sought to avoid that by filing another complaint in intervention—not an amendment, but a complaint in intervention—setting out the same cause of action, covering the same allegations, in fact, that your Honor had passed on upon the motion to strike. We now by motion to strike, ask that that document be stricken from the files, and that the allegations themselves, which go to the very root of the charges, be

stricken from the complaint in intervention.

Mr. GRIFFIN.—May it please your Honor, it is true, as counsel says, that the motion to strike was sustained. As I conceive it, the motion to [41] strike, under the present equity rules, is very much in the nature of a demurrer, the demurrer having been done away with. The complaint in intervention, if your Honor please, was stricken on various grounds, mainly because your Honor held that it did not state grounds sufficient to constitute a cause of action, and at the end of your Honor's order, you used these words: "The intervenor will be allowed twenty days within which to take such steps as he may be advised." It is possible that the word "amended" should have been added prior to the words "Bill in Intervention," but that does not change the status, as I conceive it. Your Honor gave us a right to take such proceedings as we might be advised; and we believed we had a right to file an amended bill in intervention covering the grounds which counsel set up in his motion to strike. We believe we have a right to be in court on this new bill in intervention, if we may call it such, or we will ask leave to call it an amended bill—we believe we have a right to be heard.

Mr. HOPPAUGH.—If your Honor please, as I said before, had counsel presented this as an amended bill—and I will submit it to your Honor for comparison on the question which your Honor decided—that amended bill would be on the verge of contempt. He does not pretend to file this as an amended bill; and as to the merits, in view of the authorities which

are here on file, I will only ask your Honor to compare the bills. The question which we discussed before, and which your Honor decided, is just as squarely presented in this so-called new bill as it was in the old, and there is no other question except the one your Honor has passed on, and as to that I will simply submit the new and the old bills. The briefs are on file.

Mr. GRIFFIN.—On that point I cannot agree with counsel. We were perfectly honest in our procedure. We contend, and contend honestly, that the bills in intervention do materially differ, and we, too, are glad to leave it to your Honor.

The COURT.—I will look over the two petitions, but if the second involves the same question I decided before, I do not care to consider it. If you so intended it, I am willing to treat your second petition as an amended bill. [42]

[Certificate of Shorthand Reporter to Copy of Proceedings Had June 28, 1915.]

I hereby certify the foregoing to be a true and correct copy of my shorthand notes of the remarks of counsel and the Court regarding the nature of the petition in intervention of R. Woodland Gates, taken June 28th, 1915, in the case of Joseph Gutman et al., Plaintiffs, vs. Pacific Reclamation Company, a corporation, Defendant.

A. F. TORREYSON,
Shorthand Reporter.

[Endorsed]: No. A-8. In U. S. District Court, District of Nevada. Gutman et al. vs. Pacific

Reclamation Co. Intervention of R. Woodland Gates. Proceedings had June 28, 1915. Filed Sept. 20, 1915. T. J. Edwards, U. S. Clerk. By H. D. Edwards, Deputy. [43]

[Certificate of Clerk U. S. District Court to Transcript of Record.]

In the District Court of the United States for the District of Nevada.

JOSEPH GUTMAN et al.,

Complainants,

vs.

PACIFIC RECLAMATION COMPANY, a Corporation,

Defendant,

and

R. WOODLAND GATES,

Intervenor.

I, T. J. Edwards, clerk of the District Court of the United States for the District of Nevada, do hereby certify that the foregoing forty-three (43) typewritten, numbered from 1 to 43, both inclusive, are a true and full copy of the record and all proceedings in said cause and court, and that the same, together with the original citation, hereto annexed, constitute the return to the appeal.

I do hereby certify that the cost of the foregoing record is \$41.00, and that the same has been paid by the intervenor herein.

In Witness Whereof, I have hereunto set my hand and affixed the seal of said court, at my office in

Carson City, Nevada, this 29th day of November,
1915.

[Seal]

T. J. EDWARDS,

Clerk.

[Ten Cent Internal Revenue Stamp. Canceled
11/29/15. T. J. E.] [44]

*In the District Court of the United States for the
District of Nevada.*

JOSEPH GUTMAN et al.,

Complainants,

vs.

PACIFIC RECLAMATION COMPANY, a Cor-
poration,

Defendant.

R. WOODLAND GATES,

Intervenor,

vs.

PACIFIC RECLAMATION COMPANY, a Cor-
poration, and GEORGE M. BACON, Receiver
Thereof,

Defendants.

R. WOODLAND GATES,

Intervenor, Appellant,
and

COLUMBIA-KNICKERBOCKER TRUST COM-
PANY, Trustee,

Intervenor, Appellee.

Citation on Appeal (Original).

United States of America,

District of Nevada,—ss.

To Columbia-Knickerbocker Trust Company,
Trustee, Intervenor, Appellee herein, GREET-
ING: [45]

You are hereby cited and admonished to be and *appeal* in the United States Circuit Court of Appeals for the Ninth Circuit, at the city of San Francisco, State of California, thirty days from and after the day this citation bears date, pursuant to an appeal filed in the clerk's office of the District Court of the United States for the District of Nevada, wherein Joseph Gutman et al. are complainants, and the Pacific Reclamation Company, a corporation, is defendant; and wherein R. Woodland Gates is intervenor and Pacific Reclamation Company, a corporation, and George M. Bacon, receiver thereof, are defendants; and wherein R. Woodland Gates is intervenor, appellant, and Columbia-Knickerbocker Trust Company, trustee, is intervenor, appellee, to show cause, if any there be, why the order, judgment and decree rendered against the said R. Woodland Gates, intervenor, appellant, as in said appeal mentioned, should not be corrected, and why speedy justice should not be done the parties in that behalf.

WITNESS, the Honorable E. S. FARRINGTON,
Judge of the District Court of the United States, for
the District of Nevada, this 30th day of September,
A. D. 1915.

E. S. FARRINGTON,
United States District Judge. [46]

[Endorsed]: No. A-8. In the District Court of the United States, for the District of Nevada. Joseph Gutman et al., Complainants, vs. Pacific Reclamation Company, a Corporation, Defendant. R. Woodland Gates, Intervenor, vs. Pacific Reclamation Company, a Corporation, and George M. Bacon, Receiver Thereof, Defendants. R. Woodland Gates, Intervenor-appellant, and Columbia-Knickerbocker Trust Company, Trustee, Intervenor-appellee. Citation (on Appeal—Original). Filed October 19th, 1915. T. J. Edwards, Clerk, U. S. District Court, District of Nevada. By H. D. Edwards, Deputy.

Service of the within citation and the receipt of a copy thereof, is hereby admitted this 2d day of October, A. D. 1915.

GIFFORD, HOBBS & BEARD and
DEY, HOPPAUGH & FABIAN,
Solicitors for Columbia-Knickerbocker Trust Com-
pany, Intervenor-Appellee. [47]

[Endorsed]: No. 2690. United States Circuit Court of Appeals for the Ninth Circuit. R. Woodland Gates, Appellant, vs. Columbia-Knickerbocker Trust Company, a Corporation, Trustee, Appellee. Transcript of Record. Upon Appeal from the United States District Court for the District of Nevada.

Filed November 30, 1915.

F. D. MONCKTON,
Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

By Meredith Sawyer,
Deputy Clerk.

*In the District Court of the United States for the
District of Nevada.*

JOSEPH GUTMAN et al.,

Complainants,

vs.

PACIFIC RECLAMATION COMPANY, a Cor-
poration,

Defendant.

R. WOODLAND GATES,

Intervenor,

vs.

PACIFIC RECLAMATION COMPANY, a Cor-
poration, and GEORGE M. BACON, Receiver
Thereof,

Defendants.

R. WOODLAND GATES,

Intervenor, Appellant,

and

COLUMBIA-KNICKERBOCKER TRUST COM-
PANY, Trustee,

Intervenor, Appellee.

**Order Enlarging Time [to November 15, 1915, for
Filing Record].**

Good cause appearing:

IT IS HEREBY ORDERED that the time for
filing the record in the above-entitled cause may be
and hereby is enlarged to and to include the 15th day
of November, 1915.

WM. W. MORROW,

Judge United States Circuit Court of Appeals, Ninth
Circuit.

Dated November 1st, 1915. San Francisco, California.

[Endorsed]: No. A-8. In the District Court of the United States for the District of Nevada. Joseph Gutman et al., Complainants, vs. Pacific Reclamation Company, a Corporation, Defendant. R. Woodland Gates, Intervenor, vs. Pacific Reclamation Company, a Corporation, and George M. Bacon, Receiver Thereof, Defendants. R. Woodland Gates, Intervenor, Appellant, and Columbia-Knickerbocker Trust Company, Trustee, Intervenor, Appellee. Order Enlarging Time.

No. 2690. United States Circuit Court of Appeals for the Ninth Circuit. Order Under Rule 16 Enlarging Time to Nov. 15, 1915, to File Record Thereof and to Docket Case. Filed Nov. 1, 1915. F. D. Monckton, Clerk.

*In the District Court of the United States for the
District of Nevada.*

JOSEPH GUTMAN et al.,

Complainants,

vs.

PACIFIC RECLAMATION COMPANY, a Corporation,

Defendant.

R. WOODLAND GATES,

Intervenor,

vs.

PACIFIC RECLAMATION COMPANY, a Corporation, and GEORGE M. BACON, Receiver Thereof,

Defendants.

R. WOODLAND GATES,

Intervenor, Appellant,
and

COLUMBIA-KNICKERBOCKER TRUST COMPANY, Trustee,

Intervenor, Appellee.

Order Enlarging Time [to November 27, 1915, for Filing Record].

GOOD CAUSE APPEARING:

It is hereby ordered that the time for filing the record on appeal in the above-entitled cause, in the United States Circuit Court of Appeals for the Ninth Circuit, be and the same is hereby extended to and to include the twenty-seventh day of November, 1915.

E. S. FARRINGTON,

U. S. District Judge for the District of Nevada,
Carson City, Nevada, November 11th, 1915.

[Endorsed]: In the District Court of the United States, for the District of Nevada. Joseph Gutman et al., Complainants, vs. Pacific Reclamation Company, a Corporation, Defendant. R. Woodland Gates, Intervenor, vs. Pacific Reclamation Company, a Corporation, and George M. Bacon, Receiver There-

of, Defendants. R. Woodland Gates, Intervenor, Appellant, and Columbia-Knickerbocker Trust Co., Trustee, Intervenor, Appellee.

No. 2690. United States Circuit Court of Appeals for the Ninth Circuit. Order Under Rule 16 Enlarging Time to Nov. 27, 1915, to File Record Thereof and to Docket Case. Filed Nov. 12, 1915. F. D. Monckton, Clerk.

*In the District Court of the United States for the
District of Nevada.*

JOSEPH GUTMAN et al.,

Complainants,

vs.

PACIFIC RECLAMATION COMPANY.

Defendant.

R. WOODLAND GATES,

Intervenor,

vs.

PACIFIC RECLAMATION COMPANY, a Corporation, and GEORGE M. BACON, Receiver Thereof,

Defendants.

COLUMBIA-KNICKERBOCKER TRUST COMPANY, a Corporation,

Intervenor,

vs.

PACIFIC RECLAMATION COMPANY, a Corporation,

Defendant.

**Order Enlarging Time [to December 1, 1915] for
Filing Record.**

GOOD CAUSE APPEARING:

IT IS ORDERED that the time for filing the record in the above-entitled cause, be and the same is hereby extended to and to include the first day of December, 1915.

E. S. FARRINGTON,

U. S. District Judge for the District of Nevada.

Dated Carson, November 26th, 1915.

[Endorsed]: In the District Court of the United States for the District of Nevada. Joseph Gutman et al., Plaintiffs, vs. Pacific Reclamation Company, Defendant. R. Woodland Gates, Intervenor, vs. Pacific Reclamation Company and George M. Bacon, Receiver Thereof, Defendants. Columbia-Knickerbocker Trust Co., Intervenor, vs. Pacific Reclamation Company and George M. Bacon, Receiver Thereof, Defendants. Order Enlarging Time.

No. 2690. United States Circuit Court of Appeals for the Ninth Circuit. Order Under Rule 16 Enlarging Time to Dec. 1, 1915, to File Record Thereof and to Docket Case. Filed Nov. 27, 1915. F. D. Monckton, Clerk.

No. 2690. United States Circuit Court of Appeals for the Ninth Circuit. Order Under Rule 16 Enlarging Time to Dec. 1, 1915, to File Record Thereof and to Docket Case. Refiled Nov. 30, 1915. F. D. Monckton, Clerk.

